

March 2006

MJI Publications Updates

Criminal Procedure Monograph 8—Felony Sentencing

Domestic Violence Benchbook (3rd ed)

Friend of the Court Domestic Violence Resource Book (Revised Edition)

Update: Criminal Procedure Monograph 8—Felony Sentencing

Part II—Scoring the Statutory Sentencing Guidelines

8.6 Scoring an Offender's Offense Variables (OVs)

J. OV 9—Number of Victims

2. Case Law Under the Statutory Guidelines

Add the following text to the February 2006 update to page 58:

Note: On February 15, 2006, the Court of Appeals vacated section III of its opinion in *People v Melton*, ___ Mich App ___, ___ (2006), and pursuant to MCR 7.215(J)(3), ordered that the conflict between *Melton, supra*, and *People v Knowles*, 256 Mich App 53, 61–63 (2003), be resolved by a special panel convened for that purpose.

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Update: Domestic Violence Benchbook (3rd ed)

CHAPTER 3

Common “Domestic Violence Crimes”

3.14 Other Crimes Commonly Associated with Domestic Violence

A. Offenses Against Persons

11. Torture

Effective March 1, 2006, 2005 PA 335 added a new crime, torture, to the Michigan Penal Code. Insert the new sub-subsection as indicated above immediately before subsection (B) on page 108:

MCL 750.85 makes it a felony punishable by imprisonment for life or any term of years for a person to inflict great bodily injury or severe mental pain or suffering upon another person within his or her custody or physical control, with the intent to cause cruel or extreme physical or mental pain and suffering.

CHAPTER 9

Statutory Firearms Restrictions in Domestic Violence Cases

9.5 Restrictions Arising from Conviction of a Felony

B. Michigan Restrictions on the Purchase or Possession of Firearms by Convicted Felons

Insert the following text after the August 2005 update to page 404:

In *Tuggle v Michigan Dep't of State Police*, ___ Mich App ___, ___ (2006), the Court of Appeals held that attempted breaking and entering of an unoccupied dwelling, MCL 750.110, constitutes a “specified felony” for the purposes of MCL 750.224f. The Court stated:

“On balance, we decline to negate the ‘physical force against the person *or property* of another’ portion of the definition of specified felony. [MCL 750.224f(6)(i)].”
Tuggle, supra at ___.

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Update: Friend of the Court Domestic Violence Resource Book (Revised Edition)

CHAPTER 8

Criminal Court Proceedings Involving Domestic Violence

Part I—Elements of Common Domestic Violence Crimes

8.1 Domestic Violence Crimes Generally

Effective March 1, 2006, 2005 PA 335 added a new crime, torture, to the Michigan Penal Code. Add the following bullet at the end of the bulleted list on page 216:

- ♦ Torture.